

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
JOSEPH WILSON,

Plaintiff,

-against-

ORDER

CV 05-4825 (JS)(ARL)

COUNTY OF NASSAU,

Defendant.

-----X

LINDSAY, Magistrate Judge:

By letter dated January 25, 2007, the defendant requests that the undersigned issue a report to District Judge Seybert recommending that this action be dismissed pursuant to Federal Rules of Civil Procedure 37(b) and 41(b). The pro se plaintiff has not opposed the application.

By order dated September 20, 2006 the undersigned granted the defendant's unopposed letter motion to compel responses to its discovery requests. That order required the plaintiff to serve responses on the defendant by October 1, 2006 and warned the plaintiff that his failure to comply and to participate in discovery may lead to sanctions, including a recommendation to the district judge that his action be dismissed for failure to prosecute.

According to the defendant, the plaintiff has not provided any documents and/or responses, nor has he otherwise communicated with the defendant. This history demonstrates that the plaintiff has failed to participate in discovery and has therefore failed to prosecute his case. However, in light of his pro se status, the undersigned will afford the plaintiff a final opportunity to comply with his discovery obligations. Accordingly, plaintiff's responses to the defendant's discovery requests shall be provided by **February 16, 2007**. The plaintiff is warned that his failure to comply will lead to a recommendation that his case be dismissed for failure to prosecute. See Fed. R. Civ. P. 41(b); Simmons v. Abruzzo, 49 F.3d 83, 87 (2d Cir. 1995) (A district court has the power pursuant to Fed. R. Civ. P. 41(b) to dismiss a complaint "for failure to comply with a court order, treating noncompliance as a failure to prosecute.").

Dated: Central Islip, New York
February 6, 2007

SO ORDERED:

/s/
ARLENE ROSARIO LINDSAY
United States Magistrate Judge